

# Order

Michigan Supreme Court  
Lansing, Michigan

December 20, 2007

Clifford W. Taylor,  
Chief Justice

133695  
& (18)

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 133695  
COA: 275627  
Allegan CC: 05-014347-FC

DESTREY SHANE McCOY,  
Defendant-Appellant.

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By order of September 12, 2007, appellate counsel was directed to file a supplemental brief. On order of the Court, the brief having been received, the application for leave to appeal the February 22 2007 order of the Court of Appeals is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals. That court shall treat the defendant's delayed application for leave to appeal as having been filed within the deadline set forth in MCR 7.205(F) and shall decide whether to grant, deny, or order other relief, in accordance with MCR 7.205(D)(2). The defendant's attorney acknowledges that the defendant did not contribute to the delay in filing and admits his sole responsibility for the error. Accordingly, the defendant was deprived of his direct appeal as a result of constitutionally ineffective assistance of counsel. See *Roe v Flores-Ortega*, 528 US 470, 477; 120 S Ct 1029; 145 L Ed 2d 985 (2000); *Peguero v United States*, 526 US 23, 28; 119 S Ct 961; 143 L Ed 2d 18 (1999).

Costs are imposed against the attorney, only, in the amount of \$250, to be paid to the Clerk of this Court.

We do not retain jurisdiction.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 20, 2007

*Corbin R. Davis*

Clerk